

### **REMARKS**

The examiner alleges that the specification does not support the term “crystalline” as used in the claims to modify fludarabine-phosphate. This allegation is not understood. As noted on page 1 of the specification, the invention relates, in one aspect, to a process for producing the known drug fludarabine-phosphate. See the second paragraph on page 1 describing various prior art references which produce this drug. That the target drug is conventionally available in its crystallized form is clear from the second sentence on the last partial paragraph on page 1. (“and then crystallized from water.”) The very next sentence similarly refers to “re-crystallization” of the thermally unstable fludarabine-phosphate. The first full sentence on page 2 also refers such “re-crystallization” in prior art preparations of the known drug. Since the invention, in one aspect, relates to a process for preparing the known drug, and since these passages make unambiguous that the known drug (as is well known anyway) is in the crystalline form, it is clear that the invention relates to a method for preparing the crystalline form and, in the currently claimed aspect, to that crystalline form itself of heretofore unattainable purity.

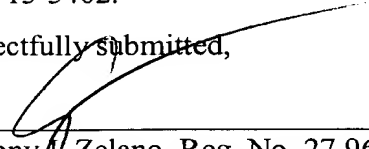
Note further the third sentence in the last paragraph on page 4 of the specification which refers to “the conventional crystallization process.”

Thus, as can be seen, the invention unambiguously relates to crystalline fludarabine-phosphate. This is in essence explicitly stated in the specification. At worst, it is a concept which necessarily and inevitably flows from a reading of the specification. Nothing more is required.

With respect to the examiner’s main prior art rejection, reference is made to the attached second Declaration Under 37 C.F.R. 1.132. This is self-explanatory and unambiguously answers the examiner’s additional question. Overall, the record establishes that the claims are novel and non-obvious.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

  
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